

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RAMON VILLANUEVA-BAZALDUA
individually and on behalf of others similarly
situated,

Plaintiff

CA 1:06-cv-00185-GMS

Class Action

v.

TRUGREEN LIMITED PARTNERS and
TRUGREEN, INC.

Defendants.

PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

Now comes Plaintiff Ramon Villanueva, through his undersigned attorneys, and moves this Court pursuant to Fed. R. Civ. P. 23 for (1) an Order certifying Plaintiff's claims for breach of contract, unjust enrichment, and violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 (RICO),¹ as a Rule 23(b)(3) class action on behalf of a class defined as:

All persons who received H-2B visas to work for TruGreen
Limited Partnership d/b/a TruGreen Chemlawn during 2003, 2004,
2005 or 2006.

(2) requiring TruGreen to provide Plaintiff, in computer readable form, all addresses, telephone numbers and social security numbers for the class members; (3) authorizing Plaintiff to issue the

¹ As of the time of filing of this Brief, the Court has not ruled on Plaintiff's motion for leave to amend his complaint to add RICO and unjust enrichment as causes of action. (D.I. 55). Nevertheless, Plaintiff is briefing the class certification of those causes of action so as to avoid delay in the event the Court grants the amendment.

notice, attached to Plaintiff's Appendix as Attachment 17, to all members of the class; and (4) giving the members of the class 60 days to opt-out of the action.

In support of this motion Plaintiff would refer the Court to the following:

1. Plaintiff's Brief in Support of this Motion filed herewith;
2. Plaintiff's Appendix in Support of this Motion.

Respectfully submitted,

/s/ Vivian L. Rapposelli

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ATTORNEYS FOR PLAINTIFF

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ORDER

Came on to be heard Plaintiff's motion to certify this action as a Rule 23(b)(3) class action. The Court having considered the motion, the arguments of counsel and the record in this case is of the opinion that the motion should be granted. It is, therefore,

ORDERED that Plaintiff's claims for breach of contract, unjust enrichment, and violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 (RICO), are hereby certified as a Rule 23(b)(3) class action on behalf of a class defined as:

All persons who received H-2B visas to work for TruGreen
Limited Partnership d/b/a TruGreen Chemlawn during 2003, 2004,
2005 or 2006.

It is further,

ORDERED that Plaintiff Ramon Villanueva-Bazaldua shall be the class representative and that Plaintiff's counsel Edward Tuddenham and Vivian Rapposelli shall act as class counsel; it is further,

ORDERED that TruGreen shall, with 10 days of the date of this Order, provide Plaintiff, in computer readable form, all addresses, telephone numbers and social security numbers for the class members in Defendants' possession; it is further,

ORDERED that within 10 days of receipt of the names and addresses of the class members, Plaintiff shall issue the notice, attached to Plaintiff's Appendix as Attachment 17, to all members of the class by first class mail; it is further,

ORDERED that the members of the class shall have 60 days from the date the Notice is mailed to opt-out of the action.

DONE THIS ____ DAY OF _____, 2007.

GREGORY M. SLEET
UNITED STATES DISTRICT JUDGE

CETIFICATE OF SERVICE

I, Vivian L. Rapposelli, Esquire, hereby certify that on September 21, 2007, I caused electronic copies of the foregoing PLAINTIFF'S MOTION and BRIEF IN SUPPORT OF MOTION FOR CLASS CERTIFICATION to be served via the Court's CM/ECF system to counsel for the defense:

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Dated: September 21, 2007